IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CONTEMPT PETITION NO.80 OF 2007

M/s.Atul Realty Pvt. Ltd. : Petitioner

V/s.

M/s.Constar Builders and Developers

Pvt. Ltd. & Anr. : Respondents

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Mr.Akhilesh S. Dubey i/b. M/s.M. Tripathi & Co., for the petitioner.

Mr.V.B.Naik with Mr.Bhalwal i/b. S.K.Singh for the respondents.

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CORAM : S.A.BOBDE, J.

DATE : SEPTEMBER 11, 2007.

P.C.

1. The petitioner has alleged breach of the order dated 24.1.2007 passed by the District Court, Thane. By the said order, the Court directed the parties to maintain status quo.

2. According to the petitioner, the status quo has been breached by the respondent nos.1 & 2 by demolishing certain portions from upper floor of the building which was under construction.

3. The respondents have filed an affidavit stating that there is no demolition or alteration of the constructed portion as is normally understood. They admitted that they have carried out demolition of a portion of the upper slabs, but according to them, that small portion which was left over during partial demolition of the upper slab had become dangerous. It could have fallen on account of vibration due to work in the neighbouring plot. The respondents have stated that they were forced to remove dangerous portion at the request of the Site Supervisor of the neighbouring plot.

4. It does not appear that the respondents have gained any advantage by demolishing a small portion of the slab. It is, therefore, difficult to attribute any wilful disobedience by them of the order of the Court. Thus, there is no reason to proceed with the notice. The contempt Petition is hereby dismissed.

S.A. BOBDE, J.